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EXAMINER

NICOLAS, FREDERICK C

ART UNIT PAPER NUMBER

3754

DATE MAILED: 07/25/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/072,512

Applicant(s)

ARSENAULT ET AL.

Examiner

Frederick C. Nicolas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 & 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed subject matter in claim 2, lines 11-13, "a third position intermediate the first and second positions, in which no liquid can flow between the main chamber and the dosing chamber, and no liquid can escape from the dosing chamber", the claimed subject matter in claim 8, lines 1-2, "wherein the device further includes a spring for biasing the shuttle toward the first position", as well as the claimed subject matter in claim 11, lines 1-2, "the dosing device in combination with a carrier tray" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,3-5,7,9,12-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Ngoc-Xang TRAN (FR 1496857).

Ngoc-Xang Tran discloses a unitary dosing device (1 and 10) for a liquid as seen in Figure 1, which comprises a main chamber see Figure 1 for location, (note: the main chamber is the upper area within element 10), where the main chamber is sized to hold more than one dose of the liquid as seen in Figure 1 and it is inherent that the main chamber of Ngoc-Xang Tran is sized to hold more than one dose of the liquid in as much as the applicant's claimed invention, a dosing chamber 2 is sized to hold one dose of the liquid, in fluidic communication with the main chamber, an unbiased shuttle 5 is adapted for movement between a first position in which the liquid can flow between the main chamber and the dosing chamber, but not out of the device as seen in Figure 1, and a second position in which the shuttle is depressed and seals the dosing chamber from the main chamber, and permits the liquid to exit the device as seen in Figure 2.

The device shown by Ngoc-Xang Tran will perform the method recited in claim 15 during normal operational use of the device.

4. Claims 1,3-5,7,9-10,12-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Rasmussen 2,864,538.

Rasmussen discloses a unitary dosing device 16 for a liquid as seen in Figure 1, which comprises a main chamber as seen in Figure 1, where the main chamber is sized to hold more than one dose of the liquid as seen in Figure 1 and it is inherent that the main chamber of Rasmussen is sized to hold more than one dose of the liquid in as much as the applicant's claimed invention, a dosing chamber 26 is sized to hold one dose of the liquid, in fluidic communication with the main chamber, a shuttle 36 is

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adapted for movement between a first position in which the liquid can flow between the main chamber and the dosing chamber, but not out of the device as seen in Figure 2, and a second position in which the shuttle is depressed and seals the dosing chamber from the main chamber, and permits the liquid to exit the device as seen in Figure 3.

The device shown by Rasmussen will perform the method recited in claim 15 during normal operational use of the device.

5. Claims 1-2,4-5,7,9,12-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Pritchett 4,807,785.

Pritchett discloses a unitary dosing device 2 for a liquid as seen in Figure 1, which comprises a main chamber is sized to hold more than one dose of the liquid (col. 2, ll. 36-44), a dosing chamber is sized to hold one dose of the liquid, in fluidic communication with the main chamber (col. 2, ll. 36-44), a shuttle 7 is adapted for movement between a first position in which the liquid can flow between the main chamber and the dosing chamber, but not out of the device as seen in Figure 2, and a second position in which the shuttle is depressed and seals the dosing chamber from the main chamber, and permits the liquid to exit the device as seen in Figure 4, (note: the upper portion of the shuttle 9 is being depressed into the dosing chamber as seen in Figure 4), a third position intermediate the first and second positions, in which no liquid can flow between the main chamber and the dosing chamber, and no liquid can escape from the dosing chamber (col. 2, ll. 45-54) and as seen in Figure 3.

The device shown by Pritchett will perform the method recited in claim 15 during normal operational use of the device.

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6. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Aperlo 3,738,543.

Aperlo discloses in a dosing device 11 having a dosing chamber 22, a removable volumetric spacer 56 that, when placed in the dosing chamber, reduces the volume available for a liquid within that dosing chamber (col. 6, ll. 24-32).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen 2,864,538 in view of Aperlo 3,738,543.

Rasmussen has all the features of the claimed invention except that the device includes a volumetric spacer within the dosing chamber. Aperlo teaches the use of a volumetric device 56 within a dosing chamber 11.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Aperlo's volumetric spacer within Rasmussen's dosing chamber as such, in order to allow the dispensing of a lesser, preselected amount of liquid, as taught by Aperlo (col. 6, ll. 29-32).

9. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ngoc-Xang TRAN (FR 1496857) in view of Aperlo 3,738,543.

Ngoc-Xang TRAN (FR 1496857) has all the features of the claimed invention except that the device includes a volumetric spacer within the dosing chamber. Aperlo teaches the use of a volumetric device 56 within a dosing chamber 11.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Aperlo's volumetric spacer within the dosing chamber of Ngoc-Xang TRAN as such, in order to allow the dispensing of a lesser, preselected amount of liquid, as taught by Aperlo (col. 6, ll. 29-32).

10. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchett 4,807,785 in view of Aperlo 3,738,543.

Pritchett has all the features of the claimed invention except that the device includes a volumetric spacer within the dosing chamber. Aperlo teaches the use of a volumetric device 56 within a dosing chamber 11.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Aperlo's volumetric spacer within Pritchett's dosing chamber as such, in order to allow the dispensing of a lesser, preselected amount of liquid, as taught by Aperlo (col. 6, ll. 29-32).

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchett 4,807,785 in view of Ludwig 2,366,343.

Pritchett has all the features of the claimed invention except that the device further includes a spring for biasing the shuttle toward the first position. Ludwig shows a unitary dosing device 1 for a liquid, a shuttle 7 is adapted for movement, a spring 14 for biasing the shuttle toward the first position (col. 2, ll. 38-53).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Ludwig's spring around Pritchett's shuttle as such, in order to urge the entire plunger assembly in an upward direction, as taught by Ludwig (col. 2, ll. 49-51).

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen 2,864,538 in view of Ludwig 2,366,343.

Rasmussen has all the features of the claimed invention except that the device further includes a spring for biasing the shuttle toward the first position. Ludwig shows a unitary dosing device 1 for a liquid, a shuttle 7 is adapted for movement, a spring 14 for biasing the shuttle toward the first position (col. 2, ll. 38-53).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Ludwig's spring around Rasmussen's shuttle as such, in order to urge the entire plunger assembly in an upward direction, as taught by Ludwig (col. 2, ll. 49-51).

### ***Allowable Subject Matter***

13. Claims 10-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Franz 2,679,347, Hogan 295,009, Titus 1,565,686, Pasnik 1,698,732, Rasmussen 2,980,302, Olson 2,603,397, Romyns 2,532,787, Bering



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2,902,250, Booth 3,076,581, Schwartzman 3,658,216, Bigelow 23,008, Reeve 1,525,828, Pasnik 1,698,732, Finney 2,067,523, Christensen et al. 2,248,958 and Qian et al. 5,826,748 disclose other types of dosing device.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (703)-305-6385. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mancene L. Gene, can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9302 and for after final communication (703)-872-9303.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0861.

FN  
July 17, 2003

 7/17/03

  
Gene Mancene  
Supervisory Patent Examiner  
Group 3700